

**SUPREME COURT OF ARIZONA
No. R-06-0020**

**SUA SPONTE PETITION PURSUANT TO
RULE 28, RULES OF THE SUPREME COURT**

EMERGENCY ADOPTION REQUIRED

Requested by:

Supreme Court of Arizona
Staff Attorneys' Office

Date:

October 25, 2006

Rule Numbers:

Rules 5(a), 9(b), and 30(r), ARCAP

Subject:

The proposal as set forth in Attachment A would amend Rules 5(a), 9(b), and 30(r), ARCAP, to include references to pertinent Rules of Family Law Procedure. For example, Rule 9(b), ARCAP, provides that the time for filing a notice of appeal is extended when motions pursuant to Rules 50(b), 59(l), and 59(a), ARCP, are timely filed. Rule 9(b) does not, however, indicate that the time is extended when motions are filed pursuant to the corollary of these civil procedure rules contained in the Arizona Rules of Family Law Procedure. As an example of the problems this creates, an appeal in a family law case may need to be filed within the usual 30 days, when in fact an appeal may be unnecessary if a motion for new trial is granted pursuant to Rule 83, ARFLP.

This proposal should be adopted on an emergency basis because this problem is reportedly causing serious and possibly irreparable consequences for attorneys and litigants.

ATTACHMENT A

ARIZONA RULES OF CIVIL APPELLATE PROCEDURE

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Rule 5. Computation; Shortening or Extension of Time.

(a) **Computation of Time.** In computing any period of time prescribed by these rules, or by an order of court, or by any applicable statute, the provisions of Ariz. Rules Civ. Proc. 6(a) and (e), or Ariz. Rules Fam. L. Proc. 4(A) and (D), shall apply.

(b)-(c) [No change in text.]

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Rule 9. Appeal – When Taken.

(a) [No change in text.]

(b) **Extension of Appeal Time.** When any of the following motions are timely filed by any party, the time for appeal for all parties is extended, and the times set forth in Rule 9(a) shall be computed from the entry of any of the following orders:

(1) [No change in text.]

(2) Granting or denying a motion to amend or make additional findings of fact pursuant to Ariz. Rules Civ. Proc. 52(b) or Ariz. Rules Fam. L. Proc. 82(B), whether or not granting the motion would alter the judgment;

(3) Granting or denying a motion to alter or amend the judgment pursuant to Ariz. Rules Civ. Proc. 59(1) or Ariz. Rules Fam. L. Proc. 84;

(4) Denying a motion for new trial pursuant to Ariz. Rules Civ. Proc. 59(a) or Ariz. Rules Fam. L. Proc. 83(A).

If more than one of the foregoing motions is timely filed, the expiration of the time for appeal is to be computed from the entry of the order which disposes of the last remaining motion. When a motion to amend or make additional findings of fact is granted, the time does not start to run until the amendment or addition has been accomplished by court order. The same applies also to the granting of a motion to alter or amend the judgment. For the purposes of this subdivision, entry of an order occurs when a signed written order is filed with the clerk of the superior court.

(c) [No change in text.]

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Rule 30. Arizona Appellate Settlement Conference Program.

(a)-(q) [No change in text.]

(r) Time. In computing any period of time prescribed by these rules or by order entered pursuant to these rules, the provisions of Ariz. R. Civ. P. (6)(a) or Ariz. Rules Fam. L. Proc. 4(A) shall apply, unless the rule or an order expressly states otherwise.

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